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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-----------------------|
| 09/830,300 | 07/05/2001 | Achim Berthold | R00282US (#90568) | 8251 |
| 28672 | 7590 | 10/13/2004 | | EXAMINER |
| D. PETER HOCHBERG CO. L.P.A. 1940 EAST 6TH STREET CLEVELAND, OH 44114 | | | | GOLLAMUDI, SHARMILA S |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1616 | |

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT PAPER

20041008

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Commissioner for Patents

The reply filed on 7/30/04 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s), See 37 CFR 1.111: Newly submitted claims 23 and 26-32 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims previous claims were directed to a therapeutic system and "a process of manufacturing a therapeutic system". The process claims have been amended to "a method of reducing cold flow", which is an unrelated and different invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23 and 26-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-272-0614. The examiner can normally be reached on M-F (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharmila S. Gollamudi Examiner Art Unit 1616

SSG

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GARY KUNZ
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